

Tramways (Ireland) Acts Amendment Bill.

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[Bill 47.]

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B I L L

TO

Amend the Tramways (Ireland) Acts, 1860, 1861,
and 1871.A.D. 1878.

WHEREAS by "The Tramways (Ireland) Act, 1860" (herein-
after called "the Act of 1860"), "The Tramways (Ireland)
Amendment Act, 1861 (herein-after called "the Act of 1861"),
and by a subsequent Act passed in the session of Parliament held
5 in the year 1871, and to be read as one with the foregoing Acts,
and intituled "An Act to amend the Tramways (Ireland) Acts,
1860 and 1861" (herein-after called "the Act of 1871"), (and which
three said Acts of 1860, 1861, and 1871, are together herein-after
referred to as "the Tramway Acts"), powers were conferred whereby
10 persons desirous of promoting the construction of tramways in
Ireland were enabled to make use, under proper control, of the
public roads, post roads, and common highways, and certain lands
contiguous thereto, subject to the provisions in the Tramway Acts
contained:

15 And whereas it is expedient to facilitate the construction of such
tramways by affording facilities for the granting of guarantees in
respect thereof, and for making the public rates of any county,
baronies or barony, which may derive benefit from the construction
of such tramway or tramways liable to be charged for a limited
20 period with the payment of interest or dividend on a certain pro-
portion of the capital necessary for the construction of such tram-
way or tramways in manner and with the securities herein-after
provided:

And whereas it is likewise expedient to amend in certain respects
25 the provisions of the Tramway Acts as to tolls, and as to speed of
locomotives used thereon, and as to other matters:

And whereas the object aforesaid cannot be effected without
the authority of Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty,
30 by and with the advice and consent of the Lords Spiritual and
[Bill 47.] A

A.D. 1878. Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title. 1. This Act may be cited for all purposes as "The Tramways (Ireland) Amendment Act, 1878."

Limitation of Act. 2. This Act shall only extend to Ireland. 5

Interpretation of terms. 3. In this Act—

The expression "the Lord Lieutenant in Council" means the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being acting by and with the advice of Her Majesty's Privy Council in Ireland: 10

And the words "persons" and "person" shall (unless there be something repugnant in the subject or context) be construed to include a body corporate or company.

Promoters may include notice for guarantee in original notice. 4. Any person or persons herein-after called "the promoters" intending to apply under the provisions of the Tramway Acts for authority to make and maintain any tramway or tramways in Ireland, and desirous of obtaining a guarantee from the county baronies or barony of the county through which or in any part of which it is intended to construct such tramway, for the payment of a dividend not to exceed *five per cent.* on any portion not exceeding *one half* of the estimated capital necessary for the construction of such tramway or tramways, shall or may include notice of their intention to look for such guarantee in the original notice of their intention as prescribed by the Tramway Acts or any of them, and shall publish and continue notice of such intention to apply for such guarantee, and shall serve said notice in all respects and to all intents and purposes in the same manner as by the Tramway Acts is laid down and prescribed with reference to notice of the original intention of application for the right to make and maintain any tramway or tramways, and as if such application for guarantee formed an integral part thereof. 20 25 30

Preliminary notices, &c. for guarantee to follow Tramway Acts. 5. All the provisions and regulations of the Tramway Acts, or any schedules thereto respectively, with reference to publication and service of notices, advertisements, deposits of documents with public officers, deposits of memorial and draft Order in Council, and estimates of expense of the undertaking, or otherwise in reference to any project for a tramway shall apply to such portion of the application having reference to a guarantee under this Act, and shall be complied with in respect thereof as fully and completely as if such provisions and regulations had been re-enacted 40 herein. 85

6. The part of such application having reference to the said guarantee shall be considered by the grand jury of the county, or other public body, in manner prescribed by the fifth and other sections of the Act of 1860, or the Tramway Act, with reference to
 5 tramway applications, and shall be subject in all respects to the same provisions and regulations as to opposition and otherwise; and the said grand jury, or other public body, on hearing the application, and the opposition thereto, if any, shall then approve provisionally, or disapprove of the said guarantee, with or without modification,
 10 and shall certify their decision as to the said guarantee in manner prescribed by the fifth section of the Act of 1860, or by the Tramway Acts, in reference to the undertaking generally, and a right of appeal by the promoters or opponents as to any such decision is hereby given to all intents and purposes similar to that
 15 given with reference to any project for a tramway brought before a grand jury under the Tramway Acts.

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 Grand jury or other public body to approve or disapprove of guarantee.

7. Any ratepayer or ratepayers, landlord, tenant, or other person interested in paying or contributing to the rates of any county, baronies or barony, on which it is proposed to give a guarantee
 20 under the provisions of this Act, may oppose the application for the same before the grand jury on giving notice to that effect three days before the day fixed for the hearing of the said application to the secretary of the said grand jury.

Right to oppose guarantee.

8. The capital for the tramway or tramways, in aid of which such
 25 guarantee shall be applied for by the promoters, shall be considered and is hereby declared to be the sum mentioned in the estimate of the expense of the undertaking lodged under the provisions of the Tramway Acts.

Capital for tramway to be considered the sum named in estimate lodged.

9. When in any case an order by the Lord Lieutenant in Council
 30 sanctioning a guarantee for payment of dividend or interest on half the capital or otherwise of any tramway project shall have been obtained, signed, and issued, the right to such guarantee, and to the payment thereof, by the particular county, baronies or barony in Ireland mentioned in such Order in Council, shall immediately
 35 attach and take effect in favour of the promoters, and the said guarantee for payment of dividend shall, by virtue of this Act, be charged upon such county, baronies or barony, and shall be payable by them respectively in the manner and subject to the provisions herein-after contained.

Right to guarantee immediate on signature of Order in Council, subject to subsequent provisions.

- 40 10. If and whenever any tramway, in respect of which a guarantee from any county, baronies or barony of any county in Ireland shall have been authorised by this Act, shall have been opened

Contribution from county or baronies.

A.D. 1878. for public traffic, and during the period of twenty years next after such opening, the net receipts from the tramway, to be ascertained in manner herein-after provided for, shall not, after payment of the interest on the mortgages, bonds, and debenture stock (if created) of the company, amount to a sum equal to a dividend at the rate 5 of *five pounds* per centum per annum on one half of the capital required for the construction and working of such tramway of the company, then the sum or amount required to make up such dividend as aforesaid on half of the said capital shall become payable half-yearly by the county, baronies, or barony, a guarantee 10 from which shall have been authorised under the provisions of this Act, and the amount required to make up such dividend as aforesaid on half the capital as aforesaid shall become payable half-yearly by the county, baronies or barony respectively in any county in Ireland: Provided always, that the said net receipts shall, after 15 payment of the interest on such mortgages, bonds, and debenture stock as aforesaid during the said period, be applied to the payment of the said dividend in priority to any other purpose whatsoever.

Moneys paid, if any, to be charge on tramways and income thereof.

11. If any moneys shall have been paid or contributed by the 20 said county, baronies or barony of any county, under the provisions of this Act, all such moneys, together with the costs and expenses of levying the same shall be as and from the dates of the respective payments of the same charged upon the tramway or tramways, and the net receipts from the same remaining after 25 payment of the interest on such mortgages, bonds, and debenture stock as aforesaid until repaid, and shall be so charged next after such mortgages, bonds, and debenture stock, and in priority to any other debt due by the promoters of the said tramway; and the said moneys so charged shall be payable to the treasurer for the 30 time being of the said county, to be applied in relief of the barony or baronies which shall have contributed the same.

How the contribution from baronies shall be ascertained.

12. For the purpose of ascertaining such receipts, and the proportions in which the county, barony, or baronies shall pay the said half-yearly sums (if any), and during such time as the same 35 shall be payable, and for other the purposes to be executed by the arbitrators as herein-after mentioned, the Board of Works in Ireland, upon the request of the promoters, may from time to time, by warrant under the hand of their secretary for the time being, appoint as arbitrators the county surveyor for the time being of 40 the county or riding of the county in question, and two other persons to be selected by the said Board of Works, and may supply

the place of any arbitrator dying, resigning, or refusing, or failing to act, or becoming incapacitated; and such arbitrators shall from time to time, by their certificate in writing, ascertain and determine the amount of such receipts in each half year applicable to the payment of the said dividend as herein-before provided, and also assess and determine the relative proportions in which such half-yearly sums shall be paid and made up by the county, baronies, or barony, such arbitrators taking into consideration the benefit or supposed benefit, immediate or prospective, which such baronies may respectively in their opinion have derived, or be likely to derive, from the formation and opening of the tramway, and every certificate of such arbitrators, under their hands, or (in case all the arbitrators shall be unable to agree) under the hands of any two of them, shall be in all respects final and binding on the said county, baronies, or barony; and from and immediately after each delivery of any certificate the county, baronies, or barony, and all lands, hereditaments, or premises therein respectively, shall be and are hereby charged and made chargeable with the payment of such half-yearly sums in the several proportions specified and set forth in such certificate; and every such certificate, and a duplicate thereof if required, shall be delivered to the promoters upon the request and upon payment by them to such arbitrators of such remuneration (if any) for their trouble in regard thereto as the Board of Works shall determine.

13. For the purpose of ascertaining the receipts from the tramway, and the working expenses thereof, and the profits of the tramway, if any, applicable to the payment of the dividend as aforesaid on the expenditure thereof, the company shall from time to time, on or before the first day of May and first day of November in every year, make out and render to the arbitrators a full, true, and distinct account of all the receipts of every nature and kind for the then preceding half year ending the *thirty-first day of December* and *thirtieth day of June* in each year arising in any manner from the tramway, and of the expenditure thereof, which account the said arbitrators shall and they are hereby authorised and empowered to examine with the documents and vouchers evidencing the same, and all books, papers, and accounts in the custody and control of the promoters, relating to the business of the promoters; and all such accounts, documents, vouchers, books, and papers shall be kept by the promoters, who shall, upon the request of the said arbitrators, from time to time produce the same to such arbitrators for examination, and such arbitrators may, if they think fit, employ one actuary or accountant to assist them in such examination from time to time,

Account of tramway receipts to be rendered.

A.D. 1878. at the cost and expense of the promoters, who shall, so long as the said barony contributions may continue, keep proper and correct books of account to shew the receipt and profits on the tramway, and the expenditure thereof, to which books of account the said arbitrator shall have at all reasonable times access, and from which they may at all times take extracts; and the promoters shall during the said period send duplicate returns to the said arbitrators of the accounts which they are bound by any Act of Parliament now in force, or that may hereafter be in force, to transmit to the clerks of the peace, and the said arbitrators shall adjust and balance the said accounts, and as to all matters relating to the said accounts, or what shall be considered as gross receipts from traffic, or net profits from traffic, their decision shall in all respects be final and conclusive on all parties. 5 10

Same mentioned in certificates to be presented by grand jury and paid by treasurer.

14. The promoters shall from time to time deliver such certificate, or a duplicate thereof, to the secretary of the grand jury of the county, who shall lay such certificate, or duplicate thereof, before the grand jury of such county at the assizes next after he shall have received the same; and it shall be lawful for such grand jury, and they are hereby required from time to time, and without application to presentment sessions, to present the sum mentioned in every such certificate relating to the county, baronies, or barony, to be raised and levied off such county, barony, or baronies, and the same shall be assessed, raised, and levied in the like manner as any presentment made under the authority of an Act passed in the sixth and seventh years of the reign of His late Majesty King William IV., chapter one hundred and sixteen, and any Act or Acts amending the same; and the treasurer of such county, out of the first moneys collected and remaining in their hands after repayment of Government advances, expenses, and salaries of public officers payable by them, shall pay the sum so presented by the grand jury to the promoters, or in such other manner as the promoters shall direct; and if the grand jury of the said county shall fail to present the sum or any part thereof contained in any such certificate relating to such county, baronies, or barony, the treasurer of the said county shall and he is hereby empowered to insert such sum or such omitted part thereof in their warrants for raising the moneys presented at the same assizes as if such sum had been duly presented by such grand jury to be raised in manner herein-before mentioned off such county, baronies, or barony as aforesaid, and the same shall be raised and levied off such baronies accordingly as if the same had been so presented, and the said treasurer shall pay over the amount when by 15 20 25 30 35 40

him received, as herein-before provided as if such money had been presented by such grand jury respectively. A.D. 1878.

15. The defeasance of every bond of a collector of grand jury cess within the county, or any or either of the baronies liable to the contributions to be hereafter given or executed, by way of security for duly collecting and paying public money, shall contain a condition for his duly collecting and paying to the treasurer of such county on or before each next succeeding assizes all such money as he shall from time to time be authorised to levy under this Act, and such bonds shall be subject to all provisions now applicable to bonds given or executed by collectors of grand jury cess. Conditions of bond by collectors of grand jury.

16. The grand jury of the county shall also present such sum of money, to be levied off every such county, baronies, or barony as aforesaid, and to be paid to any such collector as aforesaid, as his remuneration for collecting such assessment, as is payable in the case of the collection of grand jury cess. Remuneration to collectors.

17. When the person occupying any lands, hereditaments, or premises shall be liable to pay a rent in respect of the same, he may deduct from such rent for each pound of the rent which he shall be liable so to pay one half of the sum which he shall have paid as grand jury cess in respect of each pound of the net annual value whether such rent shall be greater or less than such net annual value, and so in proportion for any less sum than a pound, not exceeding the aforesaid poundage rate or cess payable by him: Provided always, that no deduction be made from tithe rentcharge or other composition in lieu of tithes for or on account of any such rate or cess. Tenants to deduct half the cess from their rent.

18. When any person to whom rent shall be payable in respect of any hereditaments shall also pay a rent in respect of the same, he shall be entitled to deduct from the rent so paid by him a sum, being such a proportion to the amount of cess deducted from the rent payable to him as the rent paid by him bears to the rent payable to him, not exceeding the half of the said poundage rate or cess payable by him: Provided always, that no lessee or other person paying any cess or contribution under this Act in respect of any hereditaments held by him for lives renewable for ever, or for the residue of any term of years which when originally created shall not have been less than nine hundred years, shall deduct any portion of such cess or contribution from the rent payable by him in respect of such hereditaments. Sub-lessee to make reduction from superior landlord's rent.

A.D. 1878.

Receipts for
rate to be
taken in
discharge
pro tanto.

19. In all cases a receipt for the cess to be levied under the authority of this Act in respect of any hereditaments shall be accepted by every person entitled to receive rent in respect of the same in lieu of such a portion of rent as the person tendering such receipt is hereby entitled to deduct from such rent by reason of 5 his payment of the rate for which such receipt shall be given : Provided always, that no deduction on account of any payment of cess under this Act shall be held to be a discharge of any portion of any gale or quarterly or other payment of rent due from the person entitled to make such deduction so as to prejudice the right of 10 any landlord to recover the possession of any hereditaments by ejectment for non-payment of rent thereof in any case where the remaining portion of such gale shall be unpaid, but it shall be lawful for such landlord to proceed for the recovery of such hereditaments by ejectment as effectually as if the entire gale or 15 quarterly or other payment of rent out of which such deduction is hereby allowed had remained wholly due or unpaid : Provided also, that no deduction shall be made from any rentcharge granted by way of jointure or any other rentcharge or annuity granted, limited, or devised for a life or lives in being only, or for years 20 determinable on a life or lives in being.

Right of
actions by
treasurer of
counties.

20. In all cases where any moneys are under the provisions of this Act made payable to the treasurer for the time being of the said county respectively, or to the baronies, such treasurer, in default of payment thereof, may recover the same with full costs of suit by 25 action in any court of competent jurisdiction, and in any such action the treasurer for the time being of the said county respectively shall be the nominal plaintiff, and as such entitled to sue on behalf of the county, and no such action shall abate or be discontinued by reason of the death, removal, or resignation of any 30 such treasurer; and all moneys received or recovered by such treasurer under the provisions of this Act shall be carried by him to the credit of the county, baronies, or barony in proportion to the amounts paid by them respectively under the provisions of this Act.

Cessation of
county or
barony con-
tribution.

21. After the expiration of twenty-five years from the opening of the tramway for public traffic, or when and as soon as the promoters shall have released the county, baronies, or barony from all further liability (whichever shall first happen), the county or barony contributions shall cease; and from and after the expiration 40 of that period, or the execution of such release, as the case may be, all the provisions of this Act contained in sections ten, eleven,

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twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, and twenty, with reference to the contributions by the said baronies, shall for ever cease and determine, except as to the sums respectively which the said county or baronies shall then be liable to pay, or which shall be then due to the said county, baronies, or barony, and charged upon the tramway, in respect of which sums the said provisions shall, until the same respectively shall have been paid, remain in full force and effect; and when after the expiration of the said period, or the execution of such release, as the case may be, the sum due to the said county, or baronies, or barony, shall have been paid, of which a statement in writing under the hand of the treasurer of the county shall be conclusive evidence, the other creditors of the company shall, in respect of their debts, be entitled to and have the same priority as if the said provisions had not been contained in this Act.

22. The persons or person who may be promoters of any project for a tramway or tramways in Ireland, the construction of which has already been authorised by an order of the Lord Lieutenant in Council in Ireland, whether such tramway so sanctioned is made or commenced or not, may apply for and obtain a guarantee for payment of the dividend on half the capital required for the undertaking to be levied from and payable by the county, baronies, or barony through which the whole or any part of said tramway may be intended to pass, on giving notice of their intention and making application to the grand jury of the county in question in the same manner as if such guarantee had been included in the original application for such tramway, and that the same had been made under the provisions of this Act, and if the order of the Lord Lieutenant in Council in Ireland as aforesaid sanctions the same, then the right to such guarantee shall take effect as fully and effectually as if same had been applied for in the original notice for such tramway project under this Act, but subject to all its requirements, regulations, provisions, and enactments.

Right to promoters of tramway project already sanctioned to apply for guarantee.

23. *From and after the passing of this Act* Schedule B. to the Act of 1860 shall be read and have effect as if, under the head of "goods" in Class L, in lieu of the words "one penny" the words "two pence" had been inserted, and as if, in paragraph 6 of the same Schedule, in relation to the maximum rate of charge, in lieu of the words "one penny halfpenny" the words "two pence halfpenny" had been inserted.

Alteration of certain tolls in Schedule B. to Act of 1860.

24. Subject to the rules and regulations contained in section three of the Act of 1871, the grand jury of any county, or other authority empowered under the Tramway Acts to grant permission to con-

Regulations as to speed of locomotives on tramways.

A.D. 1878. street a tramway or tramways, may permit the owners of any such tramway or tramways, or their servants duly authorised in that behalf, to drive any locomotive worked by steam along any such tramway at a speed not greater than *eight* miles an hour, or through any city, town, or village at a speed not greater than *five* miles an hour, and where such permission has been obtained the provisions in section four of the Act of 1871 shall be deemed not to apply.

To whom application to construct tramway to be submitted in certain cases.

25. When application is proposed to be made to any grand jury of a county, or other authority empowered to grant permission to construct a tramway or tramways under the provisions of the Tramway Acts, by which the payment of any moneys is directly or contingently sought to be charged upon the grand jury cess or other local rate by means of a guarantee or otherwise, such application shall be submitted to the grand jury or other authority empowered to present such grand jury cess, or to make such local rate, and according as the payment of any moneys is by the said application proposed to be charged upon a county at large, or upon one or more baronies in any county, or upon any part or parts of any barony or baronies, such application shall be submitted to the presentment sessions for such county at large, or for such barony or baronies as the case may be, and also to the poor law guardians of any union in which any lands proposed to be charged with the payment of any moneys are situate.

Notice of the intention to submit such application to such grand jury or other authority, and to such presentment sessions and board of guardians, shall be given ten days previously to submitting the same to the secretary or clerk of such grand jury or authority, or presentment sessions and board of guardians, and shall be advertised once in each of two consecutive weeks in some one and the same morning newspaper published in Dublin, and in some one and the same newspaper published in the county upon which, or upon any barony or baronies in which it is proposed by the application to impose any local rate or charge, or if in such county no newspaper is published then in some one and the same newspaper published in any adjoining county.

Limit of time for application to be submitted.

26. A copy of such application shall be so submitted not earlier than six months before the time fixed for presentation of such application, and not earlier than the seventh day after the last insertion of such advertisements, and shall be approved by a majority of the members of the grand jury or authority, presentment sessions, and board of guardians respectively, then present and voting thereon, and the presentment or resolution of each of the said bodies approving the same shall be deposited with the secretary

or clerk of such grand jury or authority, or presentment sessions and board of guardians, together with a statement under the hand of the foreman, chairman, or other person presiding when such presentment was made, or such resolution was passed, of the
5 number of the members then present and voting.

27. The Tramway Acts (as amended by this Act) and this Act shall be read together and construed as one Act.

A.D. 1878.
Tramway
Acts and this
Act to be
read as one.

**Tramways (Ireland)
Acts Amendment.**

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B I L L

To amend the Tramways (Ireland) Acts,
1860, 1863, and 1871

*(Prepared and brought in by
Mr. Collins, The Member for Sligo, Mr. Shaw,
and Mr. Wilson Wilson.)*

*Ordered, by The House of Commons, to be Printed,
10 January 1876.*

[P.B. 47]

Order 5 at.